

APPEAL NO. 030748
FILED MAY 12, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on February 19, 2003. The hearing officer determined that the compensable left middle finger cut injury does not include an injury to the cervical, thoracic and/or lumbar spine; that the appellant (claimant) did not have disability; and that the employer did not make a bona fide offer of employment (BFOE) to the claimant. The BFOE issue has not been appealed and therefore the hearing officer's determination has become final pursuant to Section 410.169.

The claimant appeals the extent-of-injury and disability issues citing medical evidence. The respondent (carrier) responds, urging affirmance.

DECISION

Affirmed.

The claimant, a laborer, was helping move some equipment (called a "missile") when he sustained the compensable finger injury on _____. The carrier accepted a cut left middle finger. The claimant contends that he also injured his cervical, thoracic and lumbar spine in a fall at the same time. Much of the evidence was in conflict including the mechanics of an alleged fall moving the equipment, whether there were one or two other coworkers present, and who prepared the accident reports and when. The hearing officer commented that she did not find the claimant to be a credible witness.

The evidence was in conflict in regard to the disputed issues and the evidence was sufficient to support the determinations of the hearing officer. The 1989 Act provides that the hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). Where there are conflicts in the evidence, the hearing officer resolves the conflicts and determines what facts the evidence has established. The hearing officer may believe all, part, or none of the testimony of any witness. Aetna Insurance Company v. English, 204 S.W.2d 850 (Tex. Civ. App.-Fort Worth 1947, no writ). As an appeals body, we will not substitute our judgment for that of the hearing officer when the determination is not so against the overwhelming weight of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

We affirm the hearing officer's decision and order.

The true corporate name of the insurance carrier is **ST. PAUL MERCURY INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
800 BRAZOS
AUSTIN, TEXAS 78701.**

Thomas A. Knapp
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Margaret L. Turner
Appeals Judge